

# Congress of the United States

Washington, DC 20510

October 4, 2019

The Honorable Michael E. Horowitz  
Inspector General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530-0001

Dear Mr. Horowitz:

We write to ask that you conduct an audit or evaluation of the private prisoner transportation industry and whether the U.S. Department of Justice (DOJ) is conducting sufficient oversight of private for-profit prisoner transport companies to ensure that they are complying with federal law and regulations.

In response to reports documenting the failure of private prisoner transport companies to protect individuals in their care, we wrote in February 2019 to Prisoner Transportation Services, LLC (PTS), one of the largest private prisoner transport companies in the U.S., to request information regarding the policies and procedures that PTS and its subsidiaries have implemented to comply with federal law and regulations governing the transportation of arrestees and incarcerated individuals.<sup>1</sup> PTS's responses indicate that the company, and the industry as a whole, are the subject of insufficient federal oversight. An evaluation by your office will help determine whether DOJ is adequately performing oversight of these companies and, if not, provide recommendations on how DOJ can address these concerns.

## **Introduction: The Prisoner Transport Industry**

Every year, private prisoner transport companies move tens of thousands of arrestees and incarcerated individuals across jurisdictions within the United States.<sup>2</sup> This nearly-invisible part of the justice system has resulted in a steady stream of troubling media reports and lawsuits that have raised questions about the safety and security of private prisoner transport services and companies' compliance with federal law and regulations. Reports have documented inhumane and unsafe conditions in transportation vehicles, including unsanitary practices, physical and sexual abuse, and a disturbing inattentiveness to the basic and urgent medical needs of incarcerated persons in their custody.<sup>3</sup> For example, in a lawsuit filed in April 2018, the plaintiff alleged that PTS and its subsidiaries subjected him to unsafe, unsanitary, and inhumane conditions, including the failure to provide him with prescribed hypertension medicine—risking

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<sup>1</sup> See Attachment 1: Letter from Senator Elizabeth Warren et al. to Prisoner Transportation Services, LLC, February 27, 2019.

<sup>2</sup> The Marshall Project, "Inside the Deadly World of Private Prisoner Transport," Eli Hager and Alysia Santo, July 6, 2016, <https://www.themarshallproject.org/2016/07/06/inside-the-deadly-world-of-private-prisoner-transport?ref=hp-1-100#.uLvZ9X7HV>.

<sup>3</sup> *Id.*

fatal injury.<sup>4</sup> The plaintiff also claimed that drivers were abusive towards prisoners and would repeatedly “threaten to use their mace or taze the detainees” and “threatened to use, or used, force against individuals in their custody for no reason at all.”<sup>5</sup>

Private prisoner transport companies have also endangered the general public by engaging in practices that increase the risk of automobile accidents and prisoner escapes. According to the Marshall Project, “companies are usually paid per prisoner per mile, giving them incentive to pack the vans and take as few breaks as possible.”<sup>6</sup> Reports suggest that these companies work to “maintain tight profit margins with cost-cutting decisions that affect safety for guards and prisoners,” from prisoner sanitation to security to necessary medical care.<sup>7</sup> These cost-cutting measures and a reported culture of negligence appear to have created conditions that jeopardize the safety and well-being of the individuals in their custody—many of whom have not been convicted of a crime—and also create a public safety concern. Since 2000, at least 60 prisoners have escaped from private extradition companies’ vehicles, and more than two dozen people have been killed or gravely injured in more than 50 car crashes involving private prisoner transport vans.<sup>8</sup>

There is a substantial public interest in whether these companies are providing the services for which they are paid. For-profit prisoner transport companies are paid with taxpayer funds and are subject to the Interstate Transportation of Dangerous Criminals Act (commonly known as “Jeanna’s Act”) and DOJ regulations issued pursuant to that Act.<sup>9</sup> Those regulations establish minimum safety and security standards for the transport of prisoners, including requirements regarding prisoners’ health and wellbeing. Among other requirements, companies must develop “policies, practices, and procedures...to ensure the health and physical safety of the prisoners during transport...” and to “prohibit the mistreatment of prisoners.”<sup>10</sup>

### **Congressional Investigation of Prisoner Transportation Services**

In February, we wrote to PTS to request information about the policies and procedures that the company and its subsidiaries, Prisoner Transportation Services of America (PTSA) and U.S.

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<sup>4</sup> Complaint and Jury Demand at Page 19, *Edward Kovari v. Brevard Extraditions, LLC et. al.*, No. 5:18-cv-00070, April 24, 2018.

<sup>5</sup> *Id.*

<sup>6</sup> The Marshall Project, “Inside the Deadly World of Private Prisoner Transport,” Eli Hager and Alysia Santo, July 6, 2016, <https://www.themarshallproject.org/2016/07/06/inside-the-deadly-world-of-private-prisoner-transport?ref=hp-1-100#.uLvZ9X7HV>.

<sup>7</sup> Mother Jones, “Investigation Reveals Disturbing Conditions for Prisoners Transported by For-Profit Companies,” Kanyakrit Vongkiatkajor, July 7, 2016, <https://www.motherjones.com/politics/2016/07/private-prison-transportation-companies-investigation/>.

<sup>8</sup> The Marshall Project, “Inside the Deadly World of Private Prisoner Transport,” Eli Hager and Alysia Santo, July 6, 2016, <https://www.themarshallproject.org/2016/07/06/inside-the-deadly-world-of-private-prisoner-transport?ref=hp-1-100#.uLvZ9X7HV>.

<sup>9</sup> The Interstate Transportation of Dangerous Criminals Act of 2000, Public Law 106–560.

<sup>10</sup> U.S. Department of Justice, “Establishment of Minimum Safety and Security Standards for Private Companies That Transport Violent Prisoners,” December 26, 2002, <https://www.gpo.gov/fdsys/pkg/FR-2002-12-26/pdf/02-32608.pdf>.

Prisoner Transport (USPT), have implemented to comply with relevant DOJ regulations.<sup>11</sup> In its response letters, PTS stated that five individuals have died and six others reported being sexually assaulted or abused while in PTS custody since 2003.<sup>12</sup> Despite our request for the information, PTS did not provide the number of individuals who have experienced medical emergencies or needed medical care while in its custody – a troubling omission.

PTS stated that they have taken steps to increase safety on their vans in recent years, describing themselves as “tak[ing] a leadership role in attempting to improve the industry standards of prisoner transportation,” and noting that “new training and compliance standards were implemented as of January 1, 2017.”<sup>13</sup> But the extent to which these voluntary steps are working remains unclear, in part because there appears to be no ongoing DOJ audits or reviews of PTS or other private prisoner transport companies.

In our February letter, we asked for information on any “audits on [PTS’s] transportation services ... by a government entity,” and whether these audits provided any reports or recommendations.<sup>14</sup> PTS replied that “PTS is regularly audited by the Federal Motor Carrier Safety Association ... to ensure compliance with applicable Federal Motor Safety Carrier Regulations, Hazardous Materials Regulations, and related record-keeping requirements.”<sup>15</sup> However, the company did not mention any audits or any other oversight from DOJ related to compliance with Jeanna’s Act and DOJ regulations issued pursuant to that Act. This is an alarming omission – indicating either that DOJ has not performed any audits, or that PTS is refusing to disclose the audits and their results – despite the multiple public reports and lawsuits alleging serious misconduct by PTS.

### **Request for DOJ IG Audit or Evaluation of Private Prisoner Transport Services**

The information we have obtained from our request to PTS suggests that, despite numerous reports of problems that endanger prisoners and the public, DOJ may be failing to provide critical oversight of private prisoner transportation companies. In order to ensure the health and safety of individuals being transported in these vans, as well as the safety of the general public, we urge you to conduct an audit or evaluation of the for-profit prisoner transportation industry, and determine whether DOJ is conducting appropriate oversight of these companies. We respectfully request that you include the following questions as part of that review:

1. What are DOJ’s oversight responsibilities with regard to private prisoner transport companies?

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<sup>11</sup> See Attachment 1: Letter from Senator Elizabeth Warren et al. to Prisoner Transportation Services, LLC, February 27, 2019.

<sup>12</sup> See Attachment 3: Secondary Response Letter from Prisoner Transportation Services, LLC to Senator Elizabeth Warren et al., May 31, 2019.

<sup>13</sup> See Attachment 2: Initial Response Letter from Prisoner Transportation Services, LLC to Senator Elizabeth Warren et al., March 14, 2019.

<sup>14</sup> See Attachment 1: Letter from Senator Elizabeth Warren et al. to Prisoner Transportation Services, LLC, February 27, 2019.

<sup>15</sup> See Attachment 3: Secondary Response Letter from Prisoner Transportation Services, LLC to Senator Elizabeth Warren et al., May 31, 2019.

2. Since 2003, what actions has DOJ taken to ensure that private prisoner transport companies are complying with the law, including Jeanna's Act, and relevant federal regulations?
- a. DOJ regulations require private prisoner transport companies to "require the completion of a minimum of 100 hours of employee training before an employee may transport violent prisoners," including training in the "use of restraints"; "searches of prisoners"; "use of force, including use of appropriate weapons and firearms"; "cardiopulmonary resuscitation (CPR)"; "map reading"; and "defensive driving."<sup>16</sup> What actions has DOJ taken since 2003 to ensure that private prisoner transport companies are meeting these regulatory requirements? Have these oversight actions been adequate to ensure compliance with the regulations?
  - b. Private prisoner transport companies must ensure that "policies, practices, and procedures are in effect to ensure the health and physical safety of the prisoners during transport, including a first-aid kit and employees who are qualified to dispense medications and administer CPR and emergency first-aid."<sup>17</sup> What actions has DOJ taken since 2003 to ensure that private prisoner transport companies are meeting these regulatory requirements? Have these oversight actions been adequate to ensure compliance with the regulations?
  - c. Private prisoner transport companies must ensure that "policies, practices, and procedures are in effect to prohibit the mistreatment of prisoners, including prohibitions against covering a prisoner's mouth with tape, the use of excessive force, and sexual misconduct."<sup>18</sup> What actions has DOJ taken since 2003 taken to ensure that private prisoner transport companies are meeting these regulatory requirements? Have these oversight actions been adequate to ensure compliance with the regulations?
  - d. Private prisoner transport companies are responsible for "taking reasonable measures to insure the wellbeing of the prisoners in their custody including, but not limited to, necessary stops for restroom use and meals, proper heating and ventilation of the transport vehicle, climate-appropriate uniforms, and prohibitions on the use of tobacco, in any form, in the transport vehicle."<sup>19</sup> What actions has DOJ taken since 2003 to ensure that private prisoner transport companies are meeting these regulatory requirements? Have these oversight actions been adequate to ensure compliance with the regulations?

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<sup>16</sup> U.S. Department of Justice, "Establishment of Minimum Safety and Security Standards for Private Companies That Transport Violent Prisoners," December 26, 2002, <https://www.gpo.gov/fdsys/pkg/FR-2002-12-26/pdf/02-32608.pdf>.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

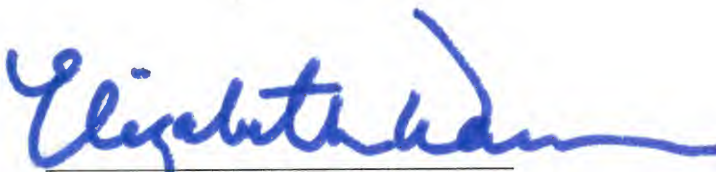
<sup>19</sup> *Id.*

3. To the extent that DOJ is conducting audits or other reviews of private prisoner transport companies, what have these audits and reviews revealed?
  - a. Have these audits or reviews identified problems with the services provided by prisoners transport companies? If so, what actions were taken to address these problems?
  - b. Were any penalties for non-compliance imposed on prisoner transport companies?
  - c. Did these audits or reviews include any recommendations for improved oversight by DOJ or improved services by prisoner transport companies, and if so, have these recommendations been fully implemented?
4. Is DOJ conducting sufficient oversight of private prisoner transport companies to ensure the health and safety of individuals in their custody, as well as the safety of the general public?

Upon completion of your review, we ask that you provide recommendations for how DOJ or other federal entities can improve oversight of private prisoner transport companies.

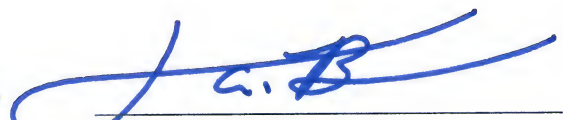
Thank you very much for your attention to this matter. We look forward to your response.

Sincerely,




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Elizabeth Warren  
United States Senator



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Cory A. Booker  
United States Senator



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Ted Deutch  
Member of Congress